

Personal Property Taxes: Can We Legally Opt Out?

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Question:

We've heard of some towns simply deciding not to assess personal property taxes. Is this a legal option?

Answer:

Absolutely not! Neither a municipal legislative body (town meeting or town or city council) nor municipal assessors may opt out of assessing any personal property otherwise taxable under State law. Such a decision would be ultra vires (beyond their legal authority). If it were made by the legislative body, it would have no binding effect on assessors, who are public officers bound by State law. If made by assessors themselves, it would be a breach of their oath to enforce the law.

The reason is that the Maine Constitution expressly reserves to the Legislature alone the power of taxation (see Art. IX, § 9). Thus, there is no municipal "home rule" to exempt any kind or amount of personal property that is taxable under State law (see, e.g., *Thorndike v. Inhabitants of Camden*, 82 Me. 39 (1889)). The same goes for real estate and excise taxes too.

The absence of any authority to deviate from State tax law does not mean there are no local options under the law, however. In fact there are several, but these are the only ones:

Municipalities may exempt active duty military personnel from vehicle excise taxes (see 36 M.R.S.A. § 1483-A).

Municipalities may, under limited circumstances, refund excess vehicle excise tax credits (see 36 M.R.S.A. § 1482(5)(D)).

Municipalities may allow seniors to work-off up to \$750 in taxes on their homes by doing municipal volunteer work (see 36 M.R.S.A. § 6232(1-A)).

Municipalities may allow seniors to defer taxes on their homes until death or the property is transferred or no longer occupied by them (see 36 M.R.S.A. § 6271).

And municipalities may fund local property tax assistance programs (see 36 M.R.S.A. § 6232(1)).

Each of these options requires an ordinance enacted by the municipal legislative body, and there are other requirements too. We've written in detail about them all in prior issues of the Maine Townsman.

Incidentally, personal property taxes make up about 10% of all property taxes collected by municipalities. (By R.P.F.)